

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

11-02-07
04:59 PM

Order Instituting Rulemaking to establish the California
Institute for Climate Solutions.

R.07-09-008
(Filed September 20, 2007)

**OPENING COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION**

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

Date: November 2, 2007

Attorneys for the Independent Energy Producers
Association

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to establish the California
Institute for Climate Solutions.

R.07-09-008
(Filed September 20, 2007)

**OPENING COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION**

In accordance with the schedule established in the Order instituting this proceeding and the October 10, 2007 ruling of Administrative Law Judge Carol Brown, the Independent Energy Producers Association (“IEP”) submits its opening comments on the questions listed in the Order.

IEP backs efforts to reduce the impacts of climate change and supports the goals of the proposed Institute for Climate Change. The proposed Institute could be particularly useful in developing new energy supply technologies, an area of special interest for the Commission and the ratepayers of the utilities it regulates. IEP will restrict its comments, however, to the questions related to the funding of the Institute.

The Order proposes to fund the Institute by means of an equal cents-per-kilowatt-hour surcharge on electricity and an equal cents-per-therm (“ECPT”) surcharge on natural gas consumed by customers of the Commission-regulated investor-owned utilities (“IOUs”). This proposal raises two major concerns.

First, the proposal places responsibility for the costs of the Institute only on the customers of the IOUs, although the benefits of the Institute will flow to all Californians and

ultimately to the world (a point raised by Commissioner Bohn in his Concurring Opinion). It would obviously be more equitable to spread the costs of the Institute more broadly, to include the participation of at least the customers of the municipal gas and electric utilities in the funding of the Institute. Although the cost-per-customer for this program may be relatively low for the IOUs' customers, these customers are required to bear the costs of many such public purpose programs, and the cumulative effect on retail rates of these programs is significant.

Second, as the Order recognizes (p. 6), the largest natural gas customers are gas-fired electric generators, and these generators will bear the bulk of gas customers' cost allocation if an ECPT approach is adopted. Most of the cost of the surcharge imposed on gas generators as gas customers (depending on the terms of the individual generator's contract) will be passed through to the retail sellers of electricity, primarily the IOUs, and their customers. Thus, the electric customers of IOUs will in effect pay the surcharge twice—once through the surcharge on electric rates, and a second time in the form of the higher cost of electricity produced by natural gas-fired units.

The practical effect of the Order's surcharge proposal is that the IOUs' electric customers will bear nearly the entire \$60 million annual proposed funding of the Institute. This does not appear to be the Commission's intended distribution of cost responsibility for the proposed Institute.

There are several possible ways to address this problem. As the Order suggests, electric generators could be exempted from the surcharge, which would also eliminate the double charge on electric ratepayers. IEP notes that the legislation establishing the Natural Gas Surcharge, which is a source of funding for energy efficiency programs, exempts natural gas used "to generate power for sale" or used "in cogeneration technology projects to produce

electricity” from the surcharge. (Pub. Util. Code § 896.) The Commission could adopt a similar approach for the funding of the proposed Institute. Alternatively, if the surcharge is based on an equal-percent-of-marginal-cost (“EPMC”) approach, rather than the ECPT method, more of the costs would be shifted to gas customers who are not engaged in the generation of electricity, and the double-charge effect on electric ratepayers would be reduced.

The double-charge to the IOUs’ electric ratepayers would also be eliminated or reduced if other sources of funding for the Institute are found. One possible and closely related source of funding might be the proceeds from any auction or other allocation of greenhouse gas emission rights or credits. While the details of this allocation are still undecided, several proposals will result in financial proceeds that could be used to fund the Institute, in whole or in part.

Accordingly, IEP respectfully urges the Commission to seek sources of funding for the proposed Institute for Climate Solutions that spread the financing as broadly as possible, in alignment with the benefits that will flow from this Institute. If a surcharge on gas consumption remains as one component of the funding, IEP asks the Commission to exempt gas-fired electric generators from the surcharge or, alternatively, to allocate the financing responsibility among gas and electric customer on an equal percent of marginal cost basis.

Respectfully submitted this 2nd day of November, 2007 at San Francisco,
California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321

By /s/ Brian T. Cragg
Brian T. Cragg

Attorneys for the Independent Energy
Producers Association

2970/019/X93421.v1

CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 2nd day of November 2007 caused a copy of the foregoing

OPENING COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION

to be served on all known parties to R.07-09-008 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

Commissioner President Michael R. Peevey
California Public Utilities Commission
State Building, Room 5218
505 Van Ness Avenue
San Francisco, CA 94102

ALJ Carol A. Brown
California Public Utilities Commission
State Building, Room 5103
505 Van Ness Avenue
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 2nd day of November 2007 at San Francisco, California.

/s/ Melinda LaJaunie
Melinda LaJaunie

SERVICE LIST – R.07-09-008
(Updated November 1, 2007)

DONALD GILLIGAN
NATIONAL ASSOCIATION OF ENERGY
SERVICE
donaldgilligan@comcast.net

CHRISTOPHER HILEN
SIERRA PACIFIC POWER COMPANY
chilen@sppc.com

NORMAN A. PEDERSEN
HANNA AND MORTON LLP
npedersen@hanmor.com

DR. RANDOLPH W. HALL
UNIVERSITY OF SOUTHERN
CALIFORNIA
rwhall@usc.edu

ELIZABETH L. AMBOS
CALIFORNIA STATE UNIVERSITY
eambos@calstate.edu

PROF. DAVID RUTLEDGE
CALIFORNIA INSTITUTE OF
TECHNOLOGY
dave.rutledge@caltech.edu

DANIEL W. DOUGLASS
DOUGLASS & LIDDELL
douglass@energyattorney.com

AMBER E. DEAN
SOUTHERN CALIFORNIA EDISON
COMPANY
amber.dean@sce.com

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON
COMPANY
Case.Admin@sce.com

HOWARD GOLLAY
SOUTHERN CALIFORNIA EDISON
howard.gollay@sce.com

LAURA GENAO
SOUTHERN CALIFORNIA EDISON
COMPANY
laura.genao@sce.com

SUSAN HACKWOOD
CALIFORNIA COUNCIL ON SCIENCE
AND TECH
hackwood@ccst.us

TAM HUNT
COMMUNITY ENVIRONMENTAL
COUNCIL
thunt@cecmil.org

DEVRA WANG
NATURAL RESOURCES DEFENSE
COUNCIL
dwang@nrdc.org

EVELYN KAHL
ALCANTAR & KAHL, LLP
ek@a-klaw.com

BRIAN CRAGG
GOODIN, MAC BRIDE, SQUERI,
RITCHIE & DAY
bcragg@goodinmacbride.com

IRENE K. MOOSEN
irene@igc.org

MICHAEL ALCANTAR
ALCANTAR & KAHL LLP
mpa@a-klaw.com

JAMES L. SWEENEY
STANFORD UNIVERSITY
Jim.sweeney@stanford.edu

ANN M. ARVIN, MD
STANFORD UNIVERSITY
aarvin@stanford.edu

LARRY HORTON
STANFORD UNIVERSITY
lhorton@stanford.edu

ALEXIS K. WODTKE
CONSUMER FEDERATION OF
CALIFORNIA
lex@consumercal.org

PETER W. HANSCHEN
MORRISON & FOERSTER LLP
phansch@mofo.com

LLOYD C. LEE
UNIVERSITY OF CALIFORNIA
GENERAL COUNSEL
lloyd.lee@ucop.edu

SAMUEL S. KANG
samuelk@greenlining.org

THALIA N.C. GONZALEZ
THE GREENLINING INSTITUTE
thaliag@greenlining.org

EDWARD VINE
LAWRENCE BERKELEY NATIONAL
LABORATORY
elvine@lbl.gov

FRANK TENG
SILICON VALLEY LEADERSHIP
GROUP
fteng@svlg.net

AUDRA HARTMANN
DYNEGY INC.
Audra.Hartmann@Dynergy.com

VIRGIL WELCH
ENVIRONMENTAL DEFENSE
vwelch@environmentaldefense.org

RONALD LIEBERT
CALIFORNIA FARM BUREAU
FEDERATION
rliebert@cfbf.com

RYAN L. FLYNN
PACIFICORP
Ryan.Flynn@pacificorp.com

CYNTHIA A. FONNER
CONSTELLATION ENERGY GROUP
INC
Cynthia.A.Fonner@constellation.com

GARY HINNERS
RELIANT ENERGY, INC.
ghinners@reliant.com

GARY A. HINNERS
RELIANT ENERGY
ghinners@reliant.com

BRIAN MCQUOWN
RELIANT ENERGY
bmcquown@reliant.com

ELENA MELLO
SIERRA PACIFIC POWER COMPANY
emello@sppc.com

LEILANI JOHNSON KOWAL
LOS ANGELES DEPT. OF WATER &
POWER
Leilani.johnson@ladwp.com

ROBERT L. PETTINATO
LOS ANGELES DEPARTMENT OF
WATER & POWER
robert.pettinato@ladwp.com

DEAN A. KINPORTS
SAN DIEGO GAS AND ELECTRIC
dakinports@semptrautilities.com

RASHA PRINCE
SAN DIEGO GAS & ELECTRIC
rprince@semptrautilities.com

ALANA STEELE
HANNA AND MORTON, LLP
asteele@hanmor.com

DR. MARK ALLEN BERNSTEIN
UNIVERSITY OF SOUTHERN
CALIFORNIA
mabernst@usc.edu

ERIC KLINKNER
PASADENA DEPARTMENT OF WATER
AND POWER
eklinkner@ci.pasadena.ca.us

REN ZHANG
PASADENA DEPARTMENT OF WATER
& POWER
rzhang@cityofpasadena.net

STEVE ENDO
PASADENA DEPARTMENT OF WATER
& POWER
sendo@ci.pasadena.ca.us

SERVICE LIST – R.07-09-008
(Updated November 1, 2007)

HALL P. DAILY
CALIFORNIA INSTITUTE OF
TECHNOLOGY
hdaily@caltech.edu

STEVEN G. LINS
GLENDALE WATER AND POWER
slins@ci.glendale.ca.us

BRUNO JEIDER
BURBANK WATER & POWER
bjneider@ci.burbank.ca.us

RICHARD J. MORILLO
rmorillo@ci.burbank.ca.us

DON LIDDELL
DOUGLASS & LIDDELL
liddell@energyattorney.com

YVONNE GROSS
SEMPRA ENERGY
ygross@sempraglobal.com

KIM KIENER
kмкиener@cox.net

JEFFREY M. GARBER
IMPERIAL IRRIGATION DISTRICT
jmgarber@iid.com

MICHAEL E. CAMPBELL
IMPERIAL IRRIGATION DISTRICT
mcampbell@iid.com

GEORGE DEHART
CITY OF ANAHEIM
gdehart@anaheim.net

STEVEN SCIORTINO
CITY OF ANAHEIM
ssciortino@anaheim.net

AUDREY CHANG
NATURAL RESOURCES DEFENSE
COUNCIL
achang@nrdc.org

KAREN TERRANOVA
ALCANTAR & KAHL, LLP
filings@a-klaw.com

LEAH FLETCHER
NATURAL RESOURCES DEFENSE
COUNCIL
lfletcher@nrdc.org

NORA SHERIFF
ALCANTAR & KAHL, LLP
nes@a-klaw.com

SHERYL CARTER
NATURAL RESOURCES DEFENSE
COUNCIL
scarter@nrdc.org

STEVE MCCOY-THOMPSON
NEXANT INC
smthomps@nexant.com

VALERIE WINN
PACIFIC GAS & ELECTRIC
vjw3@pge.com

WILLIAM H. CHEN
CONSTELLATION NEW ENERGY, INC.
bill.chen@constellation.com

ANNE W. KUYKENDALL
FOLGER LEVIN & KAHN LLP
AWK@flk.com

JANINE L. SCANCARELLI
FOLGER, LEVIN & KAHN, LLP
jscancarelli@flk.com

JOSEPH F. WIEDMAN
GOODIN MACBRIDE SQUERI DAY &
LAMPREY LLP
jwiedman@goodinmacbride.com

MARTIN A. MATTES
NOSSAMAN GUTHNER KNOX &
ELLIOTT, LLP
mmattes@nossaman.com

ANDREW L. HARRIS
PACIFIC GAS & ELECTRIC COMPANY
alho@pge.com

CHRISTOPHER WARNER
PACIFIC GAS AND ELECTRIC
COMPANY
cjw5@pge.com

ED LUCHA
PACIFIC GAS AND ELECTRIC
COMPANY
ELL5@pge.com

KATE BEARDSLEY
PG&E
KEBD@pge.com

MEREDITH ALLEN
PACIFIC GAS AND ELECTRIC
MEAE@pge.com

SEBASTIAN CSAPO
PACIFIC GAS AND ELECTRIC
COMPANY
sscb@pge.com

ELLEN R. AURITI
UNIV. OF CALIF. OFFICE OF THE
PRESIDENT
Ellen.Auriti@ucop.edu

JODY S. LONDON
JODY LONDON CONSULTING
jody_london_consulting@earthlink.net

MRW & ASSOCIATES, INC.
mrw@mrwassoc.com

ROBERT GNAIZDA
GREENLINING INSTITUTE
robertg@greenlining.org

MARCIA W. BECK
LAWRENCE BERKELEY NATIONAL
LABORATORY
mwbeck@lbl.gov

KAREN NOTSUND
UC ENERGY INSTITUTE
knotsund@berkeley.edu

LYNN ALEXANDER
LMA CONSULTING
lynn@lmaconsulting.com

C. SUSIE BERLIN
MC CARTHY & BERLIN, LLP
sberlin@mccarthyllaw.com

JAMES WEIL
AGLET CONSUMER ALLIANCE
jweil@aglet.org

ANDREW BROWN
ELLISON, SCHNEIDER & HARRIS, LLP
abb@eslawfirm.com

BRUCE MCLAUGHLIN
BRAUN & BLAISING, P.C.
mclaughlin@braunlegal.com

CHANGUS JONATHAN
OFFICE OF ASSEMBLY MEMBER
BLAKESLEE
jonathan.changus@asm.ca.gov

DOUGLAS K. KERNER
ELLISON, SCHNEIDER & HARRIS, LLP
dkk@eslawfirm.com

JANE E. LUCKHARDT
DOWNEY BRAND LLP
jluckhardt@downeybrand.com

JEFFREY D. HARRIS
ELLISON, SCHNEIDER & HARRIS, LLP
jdh@eslawfirm.com

VERONICA VILLALOBOS
UNIVERSITY OF SOUTHERN
CALIFORNIA
Vvillalo@usc.edu

WILLIAM W. WESTERFIELD III
ELLISON SCHNEIDER & HARRIS, LLP
www@eslawfirm.com

LYNN M. HAUG
ELLISON, SCHNEIDER & HARRIS, LLP
lmh@eslawfirm.com

CATHIE ALLEN
PACIFICORP
californiadockets@pacificorp.com

KYLE L. DAVIS
PACIFICORP
kyle.l.davis@pacificorp.com

SERVICE LIST – R.07-09-008
(Updated November 1, 2007)

Beth Moore
CALIF PUBLIC UTILITIES
COMMISSION
blm@cpuc.ca.gov

Carol A. Brown
CALIF PUBLIC UTILITIES
COMMISSION
cab@cpuc.ca.gov

Christine S. Tam
CALIF PUBLIC UTILITIES
COMMISSION
tam@cpuc.ca.gov

Jaclyn Marks
CALIF PUBLIC UTILITIES
COMMISSION
jm3@cpuc.ca.gov

Janet A. Econome
CALIF PUBLIC UTILITIES
COMMISSION
jjj@cpuc.ca.gov

Marion Peleo
CALIF PUBLIC UTILITIES
COMMISSION
map@cpuc.ca.gov

Sachu Constantine
CALIF PUBLIC UTILITIES
COMMISSION
sco@cpuc.ca.gov

Scott Murtishaw
CALIF PUBLIC UTILITIES
COMMISSION
sgm@cpuc.ca.gov

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
claufenb@energy.state.ca.us

PUC/X93981.v1